

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 866

Introduced by Senator Kehoe

February 22, 2005

*An act to add Division 32.5 (commencing with Section 81750) to
An act to add Article 5 (commencing with Section 535) to Chapter 8 of
Division 1 of the Water Code, relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

SB 866, as amended, Kehoe. Water use measurement information.

Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a statement of diversion and use. Existing law requires other water users or suppliers to report other water use information to various state agencies. Existing law requires certain water suppliers to install water meters on specified service connections and to charge for water service each customer that has a service connection for which a water meter has been installed based on the actual volume of deliveries as measured by the water meter.

This bill would require the Department of Water Resources, ~~not later than 2 years after the date on which the department completes each update of a specified water plan,~~ to prepare and submit to the Legislature a report with regard to various matters concerning water use measurement information. The bill would require the department to conduct a study to determine the cost-effectiveness of more accurate farm-gate measurement and to prepare and submit to the Legislature a related farm-gate measurement report ~~not later than January 1, 2011.~~ The bill would require the department, the board, and the State Department of Health Services to develop and implement

jointly a coordinated water use reporting database, along with ~~standard~~ *standardized* forms for submitting information to be reflected in the database, to be made available through the Internet. The bill would require the department to convene a group of technical staff and interested stakeholders to develop the scope and content of the database. The bill, ~~not later than January 1, 2013~~ *in accordance with a specified time table*, would require certain water users and water suppliers required to report water use measurement information to the state to do so by using the ~~standard~~ *standardized* forms developed for use in connection with the database. The bill would provide for the submission of other reports to the Legislature relating to the use of the database.

The bill, with certain exceptions and not later than January 1, 2010, would require agricultural water suppliers to report, each year, aggregated farm-gate delivery data to the department using the ~~standard~~ *standardized* forms. The bill, with a certain exception, would condition eligibility for certain grants or loans on compliance with this reporting requirement.

The bill, with certain exceptions and not later than January 1, 2010, would require persons or water suppliers diverting surface water to measure and report, at least annually, those diversions to the board using the ~~standard~~ *standardized* forms. The bill, with a certain exception, would condition eligibility for certain grants or loans to persons who divert surface water for agricultural use on compliance with this reporting requirement.

The bill would require the state agencies with responsibilities under this water measurement program to undertake their various described duties only to the extent that funds are made available for those purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) As growth and development continue to make California's
- 4 water resources increasingly scarce, diverse stakeholder groups
- 5 have recognized the importance of water measurement.
- 6 Appropriate measurement of water use leads to better water

1 ~~supply-reliability~~ *management* by making critical information
2 available to local, state, and federal water managers and planners
3 in order to aid them in better providing for future needs.

4 (b) The CALFED Bay-Delta Program Record of Decision
5 called for the development of a definition of appropriate
6 measurement and the implementation of appropriate
7 measurement actions.

8 (c) (1) On April 8, 2004, the California Bay-Delta Authority
9 approved a water use measurement proposal, that was developed
10 through an open multiyear process of technical review and
11 consultation by diverse stakeholders and agencies and was
12 designed to result in a balanced package of actions that together
13 can advance meaningful and beneficial change. The
14 authority-approved water use measurement proposal consisted of
15 several elements, including actions to be submitted for legislative
16 enactment prior to full implementation, as well as administrative
17 actions to be implemented under existing authority.

18 (2) Actions to be required by legislative enactment include all
19 of the following:

20 (A) Requiring the reporting of aggregate “farm-gate” delivery
21 data by agricultural water suppliers to the Department of Water
22 Resources.

23 (B) Requiring the measurement and reporting of surface water
24 diversions by diverters to the State Water Resources Control
25 Board.

26 (C) Requiring the development and implementation of a
27 coordinated water use reporting database, along with the use of
28 ~~standard~~ *standardized* reporting forms by the Department of
29 Water Resources, State Water Resources Control Board, State
30 Department of Health Services, and California Bay-Delta
31 Authority.

32 (3) An action found to require legislative enactment that has
33 subsequently been addressed by the Legislature in 2004 includes
34 requiring the measurement of water delivered by urban water
35 suppliers by way of municipal or industrial service connections.

36 (4) Actions to be implemented administratively, under existing
37 authority and with stakeholder involvement, include all of the
38 following:

1 (A) Measuring cropwater consumption using remote sensing
2 and more frequent assessment of net groundwater usage by the
3 Department of Water Resources.

4 (B) Conducting ongoing water measurement research and
5 adaptive management by the California Bay-Delta Authority and
6 Department of Water Resources.

7 (C) Requiring the reporting of specific water source and
8 customer delivery data by urban water suppliers to be performed
9 by the State Department of Health Services, in consultation with
10 the Department of Water Resources.

11 (d) The Department of Water Resources, State Water
12 Resources Control Board, State Department of Health Services,
13 and California Bay-Delta Authority should cooperate and
14 coordinate their efforts in collecting, managing, and utilizing
15 water use measurement information, to ensure that the
16 information is put to optimal use in water resource planning and
17 decisionmaking, to increase efficiency, and to reduce redundancy
18 of effort, agency costs, and duplicative reporting burdens on
19 persons required to report measurement information. Interagency
20 coordination is particularly necessary for the purposes of
21 developing forms, protocols, data sets, research on
22 measurement-related issues, and for the purpose of undertaking
23 adaptive management to identify future actions to improve water
24 use measurement in California.

25 ~~SEC. 2. Division 32.5 (commencing with Section 81750) is~~
26 ~~added to the Water Code, to read:~~

27 *SEC. 2. Article 5 (commencing with Section 535) is added to*
28 *Chapter 8 of Division 1 of the Water Code, to read:*

29
30 *Article 5. Water Use Reporting*

31
32 *535. Unless the context otherwise requires, the definitions set*
33 *forth in this section govern the construction of this article.*

34 (a) *“Aggregated farm-gate delivery data” means information*
35 *reflecting the total volume of water an agricultural water*
36 *supplier provides to its customers and is calculated by totaling*
37 *its deliveries to individual customers.*

38 (b) *“Agricultural water supplier” shall have the meaning set*
39 *forth in Section 10902.*

40 (c) *“Authority” means the California Bay-Delta Authority.*

1 (d) “Best available technologies” means flow totaling devices
2 and, if necessary, data loggers and telemetry, or their functional
3 equivalent that ensure optimal accuracy and precision of water
4 measurement.

5 (e) “Best professional practices” means operations,
6 maintenance, and data collection activities that ensure optimal
7 accuracy and precision of measurement installations.

8 (f) “Diverting” means diverting water in the manner
9 described in Section 5100.

10 (g) “Farm-gate” means the point at which water is delivered
11 from the agricultural water supplier’s distribution system to each
12 of its customers.

13 (h) “Farm-gate measurement” means the method used to
14 determine the volume of water delivered through a farm gate.

15 (i) “Lead scientist” means the lead scientist appointed
16 pursuant to Section 79452.

17 (j) “Person” shall have the meaning set forth in Section 5100.

18 (k) “Tidal zone” means those portions of the Sacramento-San
19 Joaquin Delta, as described in Section 12220, that are ordinarily
20 subject to tidal action.

21 (l) “Water” refers to groundwater and surface water.

22 536. (a) Not later than December 31 of each year ending in
23 0 or 5, the department shall prepare and submit to the
24 Legislature a report on the progress, status, and results of each
25 of the following:

26 (1) The coordinated state water use reporting database,
27 including a general summary of the data contained in the
28 database, and an assessment of its accuracy and thoroughness.

29 (2) A water use measurement research agenda, including a
30 description of priorities for water use measurement research
31 identified by the Independent Science Board established pursuant
32 to Section 79470.

33 (3) A review evaluating current and prior water use
34 measurement actions, including an assessment of any additional
35 measurement actions that the department recommends for
36 advancement through budgetary, administrative, regulatory, or
37 legislative means.

38 (b) Each report shall include a description of the progress,
39 status, and results of each of the following, to the extent not
40 covered in previous reports:

1 (1) Studies regarding the degree of correlation between water
2 use efficiency and farm-gate measurement, including, but not
3 necessarily limited to, the information described in subdivision
4 (c).

5 (2) Agricultural water use measurement and reporting needs
6 associated with return flow, water quality, and instream gauging.

7 (3) Effectiveness of the measurement and reporting actions set
8 forth in the authority-approved water use measurement proposal,
9 dated April 8, 2004, as implemented, and the extent to which the
10 implementation of those actions has increased or decreased the
11 overall reporting workload for water suppliers.

12 (4) Progress or obstacles with regard to the implementation of
13 the actions described in the authority-approved water use
14 measurement proposal.

15 (c) (1) The department shall conduct a study to determine the
16 cost-effectiveness of more accurate farm-gate measurement for
17 each region in California, including analyses of both positive
18 and negative effects of potential changes in farm-gate
19 measurement on environmental, agricultural, and municipal
20 water supplies. The department shall prepare a farm-gate
21 measurement report with regard to the results of the study.

22 (2) The department shall submit the final farm-gate
23 measurement report to the Legislature and, shall provide the
24 authority with an opportunity to review and comment upon a
25 draft of the report not later than January 1, 2009. In developing
26 the scope of the farm-gate measurement study, the department
27 shall consult with interested stakeholders and the authority.

28 (3) After the final report is submitted to the Legislature
29 pursuant to paragraph (2), the authority, shall submit written
30 recommendations to the Legislature regarding the potential need
31 for more accurate farm-gate measurement in California.

32 (d) The department shall prepare each report in consultation
33 with interested stakeholders, the board, and the State
34 Department of Health Services and, prior to submitting the final
35 report to the Legislature.

36 537. (a) (1) The department, the board, and the State
37 Department of Health Services shall jointly, and in consultation
38 with water suppliers and the authority, develop and implement a
39 coordinated water use reporting database, along with
40 standardized forms for submitting information to be reflected in

1 *the database, to be made available through the Internet, in*
2 *accordance with this article.*

3 *(2) The department shall convene a group of technical staff*
4 *from each of the agencies identified in this subdivision and*
5 *interested stakeholders for the purpose of developing the scope*
6 *and content of the database. The content of the database shall*
7 *include, but not be limited to, data on water deliveries,*
8 *diversions, and other related information that supports optimal*
9 *water management planning and decisionmaking.*

10 *(b) The database and standardized forms shall be developed*
11 *with the intent to facilitate the integrated and consistent*
12 *reporting, receiving, compiling, storing, managing, evaluating,*
13 *and accessibility of measurement information, while reducing*
14 *redundancy and duplication of effort, consistent with the*
15 *proposed reporting requirements set forth in the*
16 *authority-approved water use measurement proposal.*

17 *(c) After review of the draft report by the authority, the*
18 *department shall prepare and submit to the Legislature a*
19 *progress report describing the status of the development of the*
20 *database and identifying strategies for overcoming any obstacles*
21 *to its completion not later than January 1, 2007. Not later than*
22 *January 1, 2008, the department shall prepare and submit to the*
23 *Legislature a final report describing the development of the*
24 *database.*

25 *(d) (1) Not later than January 1, 2008, the board, the State*
26 *Department of Health Services, and the department shall test a*
27 *version of the database. The test, and any resulting*
28 *modifications, shall be completed within one year.*

29 *(2) Not later than January 1, 2009, the board, the State*
30 *Department of Health Services, and the department shall notify*
31 *all identified water users or water suppliers, that are required to*
32 *report water use measurement information to those respective*
33 *state agencies, with regard to the proposed schedule for using*
34 *the new database. The notice shall be provided at least 18*
35 *months prior to commencing the use of the database.*

36 *(e) Not later than January 2010, the board, the State*
37 *Department of Health Services, and the department shall*
38 *commence using the database for the collection of water use*
39 *measurement information. Each of the agencies identified in this*
40 *subdivision may separately determine the extent to which*

1 measurement information collected by that agency prior to the
2 date of initial operation of the database will be entered into the
3 database.

4 (f) Subject to Sections 538 and 539, not later than three years
5 after commencement of the use of the database in accordance
6 with subdivision (e), any water user or water supplier required to
7 report water use measurement information to the state shall do
8 so by using the standardized forms developed pursuant to this
9 section, and the board, the State Department of Health Services,
10 and the department shall discontinue other methods of collecting
11 the information covered by the standardized forms.

12 (g) The department shall maintain and manage the database.

13 538. (a) (1) Not later than January 1, 2010, agricultural
14 water suppliers shall commence reporting each year aggregated
15 farm-gate delivery data to the department using the standardized
16 forms developed pursuant to Section 537.

17 (2) For the purposes of preparing the annual report described
18 in paragraph (1), agricultural water suppliers shall summarize
19 aggregated farm-gate delivery data, on a monthly or bimonthly
20 basis, using best professional practices, and shall utilize
21 accurate measurement figures, reporting devices, and
22 methodology.

23 (b) (1) Subdivision (a) does not apply to agricultural water
24 suppliers delivering less than 2,000 acre-feet of surface water
25 annually, or serving less than 2,000 acres of agricultural land.

26 (2) On or after January 1, 2012, the department, in
27 consultation with the authority, may submit written
28 recommendations to the Legislature regarding the exemptions set
29 forth in paragraph (1).

30 (c) (1) The terms of, and eligibility for, any grants or loans to
31 agricultural water suppliers provided or administered by the
32 department, board, or authority shall be conditioned on
33 compliance with this section.

34 (2) Notwithstanding paragraph (1), the department may certify
35 that an agricultural water supplier is eligible for a grant or loan
36 even though the supplier is not complying with this section, if the
37 agricultural water supplier demonstrates to the department's
38 satisfaction that the grant or loan would assist the grantee or
39 loan recipient in complying with this section.

1 (d) *It is the intent of the Legislature that the requirements of*
2 *this section shall complement and not affect the scope of*
3 *authority granted to the department or the board by provisions of*
4 *law other than this article.*

5 539. (a) *Not later than January 1, 2010, and notwithstanding*
6 *the nature of the right upon which a diversion is based, a person*
7 *diverting surface water shall measure those diversions maintain*
8 *water-measurement devices, and keep monthly records of water*
9 *diversions with regard to the information described in*
10 *subdivision (d) of Section 5103. The measurement of the*
11 *diversions shall be made using best available technologies and*
12 *best professional practices.*

13 (b) (1) *Subdivision (a) does not apply to surface water*
14 *diversions with a combined diversion capacity from a natural*
15 *channel of less than 50 cubic feet per second or to diverters*
16 *using siphons in the tidal zone.*

17 (2) *On or after January 1, 2012, the board, in consultation*
18 *with the authority, may submit written recommendation to the*
19 *Legislature regarding the exemptions set forth in paragraph (1).*

20 (c) (1) *The terms of, and eligibility for, any grants or loans to*
21 *persons who divert surface water provided or administered by*
22 *the board, the department, or the authority shall be conditioned*
23 *on compliance with this section.*

24 (2) *Notwithstanding paragraph (1), the department may certify*
25 *that a person who diverts surface water is eligible for a grant or*
26 *loan even if the person is not complying with this section, if the*
27 *person demonstrates to the department's satisfaction that the*
28 *grant or loan would assist the grantee or loan recipient in*
29 *complying with this section.*

30 (d) *It is the intent of the Legislature that the requirements of*
31 *this section shall complement and not affect the scope of*
32 *authority granted to the department or the board by provisions of*
33 *law other than this article.*

34 540. *Notwithstanding any other provision of the law, state*
35 *agencies shall carry out the duties described in this article, only*
36 *to the extent that funds are made available for the purposes of*
37 *implementing those duties.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, March 29, 2005 (JR11)**

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